IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 21722 of 1998

DATED: 01.02.2006

Between:

B.Ramulu petitioner

And

The Regional Manager,

APSRTC, Nalgonda region, Nalgonda & another Respondents

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 21722 OF 1998

ORAL ORDER:

The present writ petition is filed questioning the proceedings dated 17.2.1995 issued by the second respondent retiring the petitioner voluntarily from service on medical grounds.

The petitioner, who was working as mechanic in the respondent corporation has submitted an application dated 18.11.1994 to the second respondent –Depot Manager seeking permission for voluntary retirement on medical grounds and the

same was accepted and proceedings dated 17.2.1995 were issued accepting the request of the petitioner for voluntary retirement. Thereafter, petitioner made an application dated 3.3.1995 requesting to appoint his son as Cleaner or in any other suitable post under the quota meant for children of retired employees on medical grounds. Since, no action was taken thereon, the petitioner filed W.P. No. 27126 of 1995. The said writ petition was dismissed by this Court by order dated 23.9.1997 granting liberty to petitioner to make a fresh representation seeking employment to his son. Pursuant to the orders of this Court, the petitioner made a representation dated 26.12.1997 to the first respondent to appoint his son as a cleaner. In turn, the first respondent issued proceedings No.P3/402(82)/97-RM:N dated 3.1.1998 rejecting the claim of petitioner for appointment on compassionate grounds on the ground that the petitioner sought voluntary retirement despite being in a fit condition to hold the post of Mechanic. The petitioner contends that the medical board which has examined him, has submitted its report in a sealed cover and he is not aware of the opinion of the medical board. He thus contends that if he is fit to continue in service, the respondent ought to have rejected his application for voluntary retirement and allowed him to work till he attains the age of superannuation. The petitioner also submitted a representation dated 29.1.1998 requesting the first respondent to set aside the impugned proceedings dt 17.2.1995 and permit him to continue in service till he attains the age of superannuation. The said request was rejected vide reply dated 21.2.1998 stating that there is no provision under the regulations of the corporation. Hence, the present writ petition.

Learned counsel for petitioner submitted that when the medical board has given an opinion that the petitioner was found fit to continue in the post he is holding, the respondents ought to have rejected the application for voluntary retirement. It is contended that the respondents having accepted the application of the petitioner for voluntary retirement on medical grounds cannot deprive the benefits under bread winner scheme to the son of the petitioner.

A counter affidavit was filed on behalf of the respondents denying the averments made by the petitioner and *inter alia* stating that there is no whisper in the application filed by the petitioner dated 18.11.1994 seeking employment to his son. Though the petitioner was found fit to perform the duties of Mechanic-Grade I vide certificate No. 0192038 dated 25.1.1995 the request of the petitioner for voluntary retirement was accepted and he was got retired w.e.f. 17.2.1995 and the retirement

benefits to which he is entitled to were also paid. It is specifically stated that as on the date of his retirement there was no application submitted by the petitioner seeking employment to his son under the quota earmarked for employees' children. It is stated that the petitioner was retired from service under Regulation 6 (1) (b) and he has no right whatsoever to seek employment to his son. That the concessions being extended to the children of the retired employees was withdrawn by the corporation by circular No.PD-13/95 dated 15.2.1995 and petitioner having retired on 17.2.1995 has no right to seek employment to his son. It is thus contended that the petitioner was got retired in terms of his application dated 18.11.1994 and the request for appointment to his son was rightly rejected in terms of the regulations of the corporation.

Heard the learned counsel for petitioner and learned Standing Counsel for respondent.

The earlier writ petition filed by the petitioner in W.P. No. 27126 of 1995 was dismissed by Division Bench of this Court by order dated 23.09.1997 holding that the petitioner has no right to claim appointment to his son on compassionate grounds on his voluntary retirement. However, the Division Bench granted liberty to petitioner to make a fresh representation to the corporation seeking employment to his son on compassionate grounds. Pursuant to the said orders, the petitioner filed a representation dated 26.12.1997 and the same was rejected by order dated 3.1.1998. In the order dated 3.1.1998 it is specifically indicated that in terms of Circular No.13 of 1995 dated 15.2.1995 the Bread Winner Scheme is discontinued except for the children of deceased employees and since the petitioner had voluntarily retired despite being in a fit condition to continue the job he cannot claim employment to his son.

Thereafter, the petitioner filed the present writ petition seeking a direction to the respondents to set aside the proceedings dt 17.2.1995 and to reinstate him in the service.

The petitioner on his own request was permitted to retire from service voluntarily by proceedings dated 17.2.1995. The subsequent claim made by the petitioner for employment to his son on compassionate grounds was rejected by the corporation vide proceedings dt 3.1.1998 in terms of Circular PD No. 13 of 1995, whereby the Bread Winner Scheme was restricted to children of deceased employees only. The

petitioner having retired from service and having accepted the retirement benefits, cannot seek reinstatement on the sole ground that his son was not provided employment on compassionate grounds. At this belated stage, after lapse of more than ten years, I do not see any reason to direct the respondents to consider the case of petitioner for reinstatement.

Accordingly, the writ petition is dismissed. No costs.

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N.V.RAMANA,J

1.02.2006

TVK

THE HON'BLE MR JUSTICE N.V. RAMANA

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